

**DEPARTMENT OF HEALTH CARE FINANCE
NOTICE OF FINAL RULEMAKING**

The Director of the Department of Health Care Finance, pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code §1-307.02), and the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code §7-771.05(6)), hereby gives notice of the adoption of an amendment to sections 5200.4 and 5213.1 of Chapter 52 of Title 29 of the District of Columbia Municipal Regulations (DCMR), entitled “Medicaid Reimbursement For Mental Health Rehabilitative Services (MHRS)”. The purpose of these final rules is to (1) set forth the appropriate billing code for the MHRS services and increases in reimbursement rates for certain MHRS services: medication/somatic treatment, counseling, community-based intervention (CBI) and assertive community treatment (ACT); (2) establish a new billing code for assessing eligibility of consumers for behavioral health services; and (3) establish a rate differential and new billing code for CBI Level I (multi-systemic) services.

A notice of emergency and proposed rulemaking was published in the *DC Register* on October 17, 2008 (55 DCR 010983). A second notice of emergency and proposed rulemaking was published in the *D.C. Register* on February 13, 2009 (56 DCR 001501). The second notice of emergency and proposed rulemaking corrected errors in the procedure codes for the diagnostic assessment service and group community support service. A third notice of emergency and proposed rulemaking was published in the *D.C. Register* on April 3, 2009 (56 DCR 002626). The third notice of emergency and proposed rulemaking included two new billing codes. The first was for a shorter diagnostic/assessment. The second was for CBI Level I (multi-systemic therapy) services.

Comments were received in response to the October 17, 2008 notice of emergency and proposed rulemaking and have been addressed by DMH in the second and third notice of emergency and proposed rulemaking. No further comments have been received. No substantive changes have been made to the text of the rules published on April 3, 2009.

Issuance of these rules is necessary to increase the number of qualified providers participating in the MHRS program, especially qualified providers of services to children, youth and their families. An increase in the capacity of the public mental health system is required to ensure that adequate community-based services are available for the 4,000 mental health consumers transitioning from the government-operated District of Columbia Community Services Agency (DC CSA) to private, community-based provider agencies over the next eighteen (18) months. This transition is occurring in accordance with the plans developed by DMH as required by the Fiscal Year 2009 Budget Support Act of 2008, Title V, Subtitle I, Sec. 5022. Copies of DMH’s plans for the DC CSA are available on the DMH website (www.dmh.dc.gov), by clicking on the link labeled D.C. Community Services Agency Report to the Council.

These rules will become effective upon publication of this notice in the *D.C. Register*.

Chapter 52 of Title 29 DCMR (Medicaid Reimbursement for Mental Health Rehabilitative Services) is amended as follows:

Section 5200.4 shall be deleted in its entirety and amended to read as follows:

5200.4 Each MHRS provider shall comply with the certification standards set forth in Chapter 34 of Title 22A District of Columbia Municipal Regulations (DCMR).

Section 5213.1 shall be deleted in its entirety and amended to read as follows:

5213.1 Medicaid reimbursement for MHRS shall be determined as follows:

SERVICE	CODE	BILLABLE UNIT OF SERVICE	RATE
Diagnostic/Assessment	T1023HE	An assessment, at least 3 hours in duration	\$ 240.00
	H0002	An assessment, 40 – 50 minutes in duration to determine eligibility for admission to a mental health treatment program	\$ 85.00
Medication/Somatic Treatment	T1502	15 minutes	\$ 35.72 – Individual (ages 22 and over)
	T1502HA	15 minutes	\$ 38.96 – Individual (ages 0 – 21)
	T1502HQ	15 minutes	\$ 19.33 – Group
Counseling	H0004	15 minutes	\$ 19.50 Individual On-site (ages 22 and over)
	H004HA	15 minutes	\$ 20.31 - Individual On-Site (ages 0 – 21)
	H004HQ	15 minutes	\$ 10.45 – Group
Community Support	H0036	15 minutes	\$ 20.10 Individual
	H0036HQ	15 minutes	\$ 8.67 Group
Crisis/Emergency	H2011	15 minutes	\$ 33.57
Day Services	H0025	One day, at least 3 hours in duration	\$ 144.77
Intensive Day Treatment	H2021	One day, at least 5 hours in duration	\$ 164.61

SERVICE	CODE	BILLABLE UNIT OF SERVICE	RATE
Community-Based Intervention (Level I)	H2033	15 minutes	\$45.94
Community-Based Intervention (Level II and Level III)	H2022	15 minutes	\$ 31.35
Assertive Community Treatment	H0039	15 minutes	\$ 33.23

THE DISTRICT OF COLUMBIA HOUSING AUTHORITY**NOTICE OF FINAL RULEMAKING**

The Board of Commissioners of the District of Columbia Housing Authority (DCHA) hereby gives notice of the following amendments to selected provisions of Title 14 of the District of Columbia Municipal Regulations. The DCHA's rulemaking authority is found in the District of Columbia Housing Authority Act of 1999 at D.C. Code § 6-202. A Notice of Proposed Rulemaking was published in the D.C. Register on March 27, 2009 at 56 DCR 002436.

The amendments are to Chapter 95, Rent Subsidy Programs: Local Rent Supplement Program, to add a new section 9508. The subsections are 9508.1, 9508.2, 9508.3, 9508.4, 9508.5, 9508.6, and 9508.7. Final action to adopt this rule was taken at the Board of Commissioners regular meeting on May 13, 2009. These final rules will be effective upon publication of this notice in the D.C. Register.

14 DCMR Chapter 95:**9508 ELIGIBILITY AND ADMISSIONS, CRIMINAL HISTORY AND DETERMINATION OF RENT APPLICABLE TO SPONSOR-BASED HOUSING ASSISTANCE**

- 9508.1 The regulations set forth below in this Section shall govern eligibility and admissions, criminal history and determination of rent for Sponsor-Based Assistance under the LRSP. Except as provided in Chapter 9500 et seq., the rules and regulations applicable to the HCVP shall govern eligibility and admission, review of criminal history and determination of rent for the Sponsor-Based Assistance under the LRSP.
- 9508.2 DCHA shall determine eligibility of applicants to be housed by a Sponsor with sponsor-based assistance under LRSP. In order to determine eligibility, DCHA will review the following documents which shall be executed and/or completed, as appropriate by the applicant and submitted by or on behalf of an applicant to DCHA's Client Placement Division:
- (a) Privacy Act Notice;
 - (b) Social Security Number Certifications:
 - (1) Social Security Numbers for each Household Member 6 years old or older; or
 - (2) Certification of inability to meet the documentation requirement where an applicant has a Social Security Number but no documentation; or
 - (3) Certification that Social Security Numbers have not been issued;

(c) Verification of Date of Birth for each Household Member in the form of any of the following:

- (1) Birth certificate; or
- (2) Valid government issued identification which includes the date of birth; or
- (3) Other evidence of birth.

(d) Government issued ID for family members age eighteen (18) or older;

(e) Statement of Child Care Expense Form;

(f) Verification of Full-time Student Status Form;

(g) Certification of Disability Form;

(h) Evidence and Verification of Income:

- (1) Documentation evidencing employment, pension, retirement or other income to the extent applicable to the applicant; and
- (2) Income Maintenance Administration and/or Social Security Administration; or
- (3) Electronic Database Checks.

(i) Verification of residency in the District of Columbia. The applicant shall provide evidence to demonstrate the following:

- (1) Applicant has resided in the District of Columbia at least six (6) months prior to application for LRSP as demonstrated by any valid, non-expired government identification (e.g. DMV, IMA identification, passport) issued at least six (6) months prior to application; or
- (2) Applicant has lived in the District of Columbia during any six (6) of the last twelve (12) months, prior to LRSP application. Any of the following documents shall demonstrate residency within the District of Columbia for this time period:
 - (A)Benefit records addressed to a District of Columbia address; or
 - (B)Medicaid records or medical records; or
 - (C)Bank records; or
 - (D)Employment records; or

(E)Tax records; or

(F)Housing or lease records; or

(G)Affidavit of homeless shelter, social service provider, non-profit organization or religious organization where the applicant has been residing or with which they have been engaged.

(3) To the extent that an applicant who is referred by a sponsor receiving sponsor-based assistance, cannot submit documentation set forth in Section 9508.2(i) above, DCHA shall accept referrals for eligibility and may deem eligible in accordance with the applicable rules set forth above, applicants who are residents of the District of Columbia as defined in DC Code Section 4-205.03. With respect to each sponsor, the number of applicants admitted under this subsection shall not exceed ten percent (10%) of the total number of vouchers allotted to such sponsor on an annual basis.

(j) Release of information form; and

(k) Such other forms as may be required by DCHA.

9508.3 An applicant who is referred by a sponsor receiving sponsor-based assistance and owes a debt arising out of a past participation in a federally funded housing program under Section 6109.4 (b) shall not be deemed ineligible for participation in the LRSP. Any subsequent application for assistance under a federally funded housing program or a locally funded program under than sponsor-based LRSP by a person previously deemed eligible under the rules governing the LRSP shall be governed by the then existing laws, rules and regulations governing eligibility for the applicable federal or local program.

9508.4 In the event unfavorable information is received as a result of the investigation conducted regarding an applicant's criminal history during the eligibility process, and the applicant cannot satisfactorily meet the mitigation factors set forth in Section 6109.6, a felony conviction shall not bar the applicant from being deemed eligible for assistance under the Sponsor-Based assistance under the following circumstances:

(a) The Sponsor seeking to house the applicant agrees to provide appropriate supportive services tailored towards the offense committed by the applicant; and

(b) The applicant demonstrates in writing a willingness to receive and participate in relevant case management services related to the offense for which the applicant was convicted.

9508.5 In the event that the applicant has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing, and the applicant can satisfactorily meet the mitigation factors set

forth in Section 6109.6, the applicant shall not be barred from being deemed eligible for assistance under the Sponsor-Based assistance.

- 9508.6 No mitigation in accordance with Section 6109.6 shall be required for offenses less than a felony conviction.
- 9508.7 DCHA may on an annual basis adopt a payment standard for sponsor-based assistance under the LRSP that exceeds the payment standard adopted for DCHA's federally funded HCVP programs in accordance with Section 8300.3. Such payment standard for sponsor-based assistance shall in no event exceed the submarket rents established in accordance with Section 8301.3. In the event that the DCHA Board of Commissioners does not adopt a separate standard for any given fiscal year applicable to sponsor-based assistance, then the federal payment standard adopted pursuant to Section 8300.3 for DCHA's federally funded HCVP programs shall apply to sponsor-based assistance under the LRSP.

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

NOTICE OF FINAL RULEMAKING

The Acting State Superintendent of Education, pursuant to the authority set forth in Sections 3(a) and 3(b)(12) of the District of Columbia the State Education Office Establishment Act of 2000 (D.C. Law 13-176; as amended, D.C. Official Code §38-2602(a) and §38-2602(b)(12) (2008 Supp.)) hereby gives notice of final rulemaking to add a new chapter A23 to Title 5 of the *District of Columbia Municipal Regulations* (DCMR), entitled “State-wide Academic Assessments” effective upon publication of this notice in the *D.C. Register*.

The Office of the State Superintendent of Education requires District-wide testing annually for the assessment and evaluation of student achievement in District of Columbia Public Schools and public charter schools, including students receiving educational services funded by the District of Columbia in other states. In this regard the final regulation clarifies that Section A2301.4 does not apply to children who are wards of the District of Columbia living outside the District, and participate in a statewide assessment administered by schools they attend in another jurisdiction.

The District of Columbia’s annual academic assessment is currently administered through the District of Columbia Comprehensive Assessment System (DC-CAS). The Office of the State Superintendent of Education publishes the results of the DC-CAS annual assessments to inform parents, guardians and community members about District-wide student achievement and progress which is referred to herein as a State-wide program for academic assessments.

CHAPTER A23 STATE-WIDE ACADEMIC ASSESSMENTS**A2300 ADMINISTRATION OF STATE-WIDE ACADEMIC ASSESSMENTS**

- A2300.1** The State Superintendent shall establish and implement an annual State-wide program for academic assessments.
- A2300.2** The State Superintendent shall publicize the schedule for State-wide academic assessments prior to the beginning of each school year. All schools shall follow the schedule announced by the State Superintendent.
- A2300.3** The State-wide assessment program shall be administered each spring in conformance with guidelines established by the State Superintendent to include, at a minimum, the testing and reporting of results for all students enrolled in grades three (3) through eight (8) and grade ten (10), in the District of Columbia Public Schools system and public charter schools.

A2300.4 The State-wide assessment program shall be aligned to the District of Columbia state-level content standards, including without limitation, content standards in English language arts, mathematics, and science.

A2301 PARTICIPATION IN STATE-WIDE ACADEMIC ASSESSMENTS

A2301.1 All students enrolled in grades three (3) through eight (8) and grade ten (10) shall participate in the State-wide math and English language arts assessments.

A2301.2 All students enrolled in grades five (5) and eight (8) shall participate in the State-wide science assessment.

A2301.3 All students enrolled in grades nine (9) through twelve (12) shall participate in the state-wide biology assessment. Students shall take the assessment at the end of the school year in which the student is enrolled in biology.

A2301.4 All District of Columbia students enrolled in nonpublic schools and receiving educational services funded by the District of Columbia shall participate in the annual academic assessments administered by the District of Columbia in conformance with this chapter. Wards of the District of Columbia receiving educational services funded by the District of Columbia, living outside the District of Columbia and attending a public school in another jurisdiction shall be exempt from participating in the District of Columbia's statewide academic assessment, provided they participate in the statewide system of assessment in the jurisdiction in which they are enrolled.

A2301.5 The State Superintendent shall issue guidance to prescribe how students with disabilities and English language learners are to be assessed under this chapter, including the use of appropriate testing accommodations.

A2302 REPORTING OF ASSESSMENT RESULTS

A2302.1 The State Superintendent shall publish annually the results of the State-wide testing based upon the assessment data.

A2302.2 Summary reports of State-wide testing results shall be prepared and distributed by the Office of the State Superintendent of Education.

A2302.3 Individual student test results shall be available to the parent or guardian of a student, and to an adult student.

A2302.4 Any data that identifies individual student information shall be reported or made public in conformance with District and federal laws.

A2399 DEFINITIONS

Public Charter School means a public school in the District of Columbia approved by an eligible chartering authority including the District of Columbia Public Charter School Board or any entity authorized as an eligible chartering authority in the District of Columbia.

Public school means a school within the District of Columbia Public School system or a public charter school in the District of Columbia.

State Superintendent means the State Superintendent of Education for the District of Columbia.

State-wide means District-wide.

The following provisions in Title 5 shall be deleted:

Section 2310.1

Section 2310.2

Section 2312.3

Section 2312.7

THE OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

NOTICE OF FINAL RULEMAKING

The Acting State Superintendent of Education, pursuant to the authority set forth in section 3(b)(11) of the State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code § 38-2602(b)(11)) (2008 Supp) and section 2203(j)(2) of the District of Columbia School Reform Act, approved April 26, 1996 (110 Stat. 1321; D.C. Official Code § 38-1802.03(j)(2) (2008 Supp.); hereby gives notice of final rulemaking adopting a new Chapter A54 to subchapter A of Title 5 of the *District of Columbia Municipal Regulations* (DCMR), effective upon publication of this notice in the *D.C. Register*. The rules establish procedures for an eligible applicant to appeal to the Office of the State Superintendent of Education, a decision by a District of Columbia Eligible Chartering Authority denying a petition to establish a public charter school in the District of Columbia.

Proposed rules were published for comment on March 20, 2009 (56 DC Register 2276) and are being adopted in final as proposed.

Title 5 of the DCMR is amended to add a new Chapter A54 to Subtitle A to read as follows:

**CHAPTER A54 APPEAL PROCEDURES FOR DENIAL OF A
PETITION TO ESTABLISH A DISTRICT OF
COLUMBIA PUBLIC CHARTER SCHOOL**

A5400 General Provisions

- A5400.1 A final written decision issued by an Eligible Chartering Authority denying a Petition to establish a public charter school in the District of Columbia is subject to review by an appropriate court of the District of Columbia or the State Superintendent of Education.
- A5400.2 These rules set forth procedures for an appeal to the State Superintendent of Education.

A5401 Filing and Notification Requirements

- A5401.1 An Eligible Applicant may appeal the Eligible Chartering Authority's final written decision to the State Superintendent of Education within fifteen (15) business days after the date of the Eligible Chartering Authority's decision.
- A5401.2 The notice of appeal shall contain the following information:

- (a) The name of the Eligible Applicant including the name, signature, address, and telephone number of the Eligible Applicant's representative and other relevant contact information;
- (b) The name of the Eligible Chartering Authority; and
- (c) The effective date of the Eligible Chartering Authority's final written decision denying a Petition.

- A5401.3 The OSSE shall assign a case number to each appeal and provide written confirmation of receipt of the appeal to the Eligible Applicant and the Eligible Chartering Authority.
- A5401.4 A notice of appeal filed later than fifteen (15) business days after the date of the Eligible Chartering Authority's final written decision denying a Petition shall be deemed out of time and shall be rejected by the OSSE with written notification to the Eligible Applicant and the Eligible Chartering Authority.
- A5401.5 An Eligible Applicant's notice of appeal, the record, and all submissions related to an appeal shall be delivered to the Office of the State Superintendent of Education, Attention: Office of the General Counsel, Charter School Petition Appeals, at the OSSE's main address.
- A5401.6 All documents filed with regard to an appeal under this chapter shall include a Certificate of Service, signed by the authorized representative of the party filing a document.
- A5401.7 The Certificate of Service must state the following:
- (a) The date and the method of service (e.g., mail, personal-delivery); and
 - (b) The names and addresses of the persons served in accordance with this chapter.
- A5401.8 When documents are mailed, three (3) business days shall be added to the mailing date for purposes of calculating time within this chapter.
- A5402 Appeal Record**
- A5402.1 Within fifteen (15) business days after the date of a notice of an appeal, the Eligible Chartering Authority shall deliver to the OSSE a copy of the final written decision denying the Petition and the record related to the Petition.

- A5402.2 The record shall consist of all documents relevant to the Petition and the Eligible Chartering Authority's final written decision denying the Petition including without limitation:
- (a) The Petition to establish a public charter school, including all exhibits to the Petition;
 - (b) The transcript of any public hearings or testimony before the Eligible Chartering Authority with regard to the Petition subject to appeal, including all exhibits referenced in the transcript;
 - (c) All other materials related to the Petition submitted by the Eligible Applicant to the Eligible Chartering Authority;
 - (d) Any documents and written communications referred to or relied upon by the Eligible Chartering Authority in reaching its decision; and
 - (e) The final written decision of the Eligible Chartering Authority.

A5403 Written Submissions

- A5403.1 Within fifteen (15) business days after the date an Eligible Applicant files a timely appeal with the State Superintendent, the Eligible Applicant shall submit to the OSSE a double spaced written submission in support of the appeal.
- A5403.2 The Eligible Chartering Authority shall respond within fifteen (15) business days after the date of the Eligible Applicant's submission referred to in Section A5403.1, with a double spaced written response to matters raised by the Eligible Applicant.
- A5403.3 Written submissions shall set forth precise statements in support of the position being taken on appeal with regard to challenging or supporting the Eligible Chartering Authority's written decision including as appropriate:
- (a) Specific reasons and basis for disagreeing with the Eligible Chartering Authority's final written decision; and
 - (b) How the Eligible Chartering Authority's written decision should be altered or reversed, based upon specific facts in the record supporting the written submission on appeal including any pertinent legal authority; or

- (c) Specific reasons and basis in the record to confirm the Eligible Chartering Authority's final written decision.

A5403.4 An Eligible Applicant's failure to make a timely written submission to the State Superintendent under this Chapter shall constitute an automatic withdrawal of the notice of appeal.

A5403.5 The OSSE shall notify the parties in writing when an appeal is deemed to have been withdrawn, with no further involvement of the OSSE with regard to the appeal.

A5404 Final Decision

A5404.1 The State Superintendent's review shall be limited to the record and written submissions of the Eligible Chartering Authority and the Eligible Applicant.

A5404.2 The State Superintendent shall uphold the Eligible Chartering Authority's decision if it is based on Substantial Evidence in the record.

A5404.3 The State Superintendent's final written decision shall affirm, reverse in whole or remand for further consideration the Eligible Chartering Authority's decision.

A5404.4 If the State Superintendent reverses the Eligible Chartering Authority's decision, and grants a Petition, the State Superintendent's decision shall instruct the Eligible Chartering Authority to grant the Petition within fifteen (15) business days from the date of the State Superintendent's final written decision.

A5404.5 The State Superintendent shall provide both parties with a copy of its final written decision.

A5499 Definitions

Certificate of Service means a signed written statement indicating that documents filed with or issued by the OSSE have been either delivered or mailed to the other appropriate parties.

Eligible Applicant means a person, including a private public or quasi public entity, or an institution of higher education as defined in Section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)), that seeks to establish a public charter school in the District of Columbia pursuant to the School Reform Act of 1995, (110 Stat.1321-107, P.L. 104-134) as amended, D.C. Official Code § 38-1802.02 *et seq.*

Eligible Chartering Authority means the District of Columbia Public Charter School Board or any one entity authorized as an eligible chartering authority in the District of Columbia.

OSSE means the Office of the State Superintendent of Education.

Petition means a written application by an Eligible Applicant to establish a public charter school in the District of Columbia.

State Superintendent means the State Superintendent of Education and may include the State Superintendent's designee.

Substantial Evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion or finding.